

1 JEFFREY L. ANDERSON (State Bar No. 157982)

2 Cohen & Durrett, LLP
3 2100 Northrop Avenue, Ste. 900
4 Sacramento, California 95825
5 Telephone: (916) 927-8797
6 Facsimile: (916) 927-8798

7 PATRICK M. SOLURI (State Bar No. 210036)
8 SOLURI MESERVE, A LAW CORPORATION
9 1010 F Street, Suite 100
10 Sacramento, California 95814
11 Telephone: (916) 455-7300
12 Facsimile: (916) 244-7300

13 Attorneys for Petitioners and Plaintiffs

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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

ISAAC GONZALEZ, JAMES CATHCART,
and JULIAN CAMACHO,

Petitioners and Plaintiffs,

v.

KEVIN JOHNSON, JOHN SHIREY, JOHN
DANGBERG, CITY OF SACRAMENTO,
and DOES 1 through 40, inclusive,

Respondents and Defendants.

CASE NO.:

VERIFIED PETITION FOR WRIT OF
PROHIBITION, FOR DECLARATORY
RELIEF, FRAUD, AND COMPLAINT TO
RESTRAIN ILLEGAL EXPENDITURE
OF PUBLIC FUNDS [Code Civ. Proc., §
526, subd. (a)]

FILED
Superior Court Of California,
Sacramento
05/14/2013
awoodward
By _____, Deputy
Case Number:
34-2013-80001489

Petitioners and Plaintiffs ISAAC GONZALEZ, JAMES CATHCART, and JULIAN CAMACHO (collectively, “Petitioners”), hereby petition this Court for a writ of prohibition and concurrently bring this action for fraud and seek declaratory relief and injunctive relief pursuant to Code of Civil Procedure section 526, subdivision (a), alleging as follows:

PARTIES

1. Petitioner and Plaintiff ISAAC GONZALEZ (“Mr. Gonzalez”) has been assessed for, and is liable to pay, a tax in the City of Sacramento, California. Mr. Gonzalez is also a resident of the City of Sacramento.

2. Petitioner and Plaintiff JAMES CATHCART (“Mr. Cathcart”) has been assessed for, and is liable to pay, a tax in the City of Sacramento, California. Mr. Cathcart is also a resident of the City of Sacramento.

3. Petitioner and Plaintiff JULIAN CAMACHO (“Mr. Camacho”) has been assessed for, and is liable to pay, a tax in the City of Sacramento, California. Mr. Camacho is also a resident of the City of Sacramento.

4. All Petitioners and Plaintiffs shall be collectively referred to as “Petitioners” herein.

5. Respondent and Defendant CITY OF SACRAMENTO (“the City”) is a municipal corporation organized under the laws of the State of California.

6. Respondent and Defendant KEVIN JOHNSON (“Mayor Johnson”) is the elected Mayor of the City.

7. Respondent and Defendant JOHN SHIREY (“Mr. Shirey”) is the City Manager for the City.

8. Respondent and Defendant JOHN DANGBERG (“Mr. Dangberg”) is the Assistant City Manager for the City.

9. Petitioners are unaware of the true names and capacities of RESPONDENTS and DEFENDANTS DOES 1 – 40, and sue such respondents and defendants herein by fictitious names. Petitioners are informed and believe, and based on such information and belief allege that the fictitiously named respondents and defendants are also responsible for the injury to

Petitioners alleged herein. When the true identities and capacities of these respondents and defendants have been determined, Petitioners will, with leave of the Court, if necessary, amend this petition and complaint to insert such identities and capacities.

GENERAL ALLEGATIONS

10. Petitioners reallege and incorporate by reference the allegations in paragraphs 1 through 9 as if fully set forth herein.

Background on the Kings in Sacramento

11. In 1983, the Kansas City Kings, a National Basketball Association (“NBA”) franchise, was purchased by Sacramento-based investors who had the intent to relocate the team to Sacramento. The Kansas City Kings NBA franchise was subsequently relocated to Sacramento in 1985, renamed the Sacramento Kings (“Kings”) and began playing in a temporary arena that was funded completely with private capital. The Kings played in the temporary arena until 1988.

12. Construction of a permanent arena for the Kings was completed in 1988. The permanent arena cost approximately \$40 million to construct, and was also funded completely with private capital. The Kings continue to play in this arena – now identified as Sleep Train Arena – to the present. Sleep Train Arena is also used for numerous other spectator events throughout the year.

13. Since 1988, there have been numerous studies and proposals for an even newer arena for the Kings. Unlike the first two arenas for the Kings, however, many of these proposals seek significant public subsidies. As one example, in 2006, the City of Sacramento and County of Sacramento officials agreed to put a proposal on the November 7, 2006 ballot as Measures Q and R, which would have publicly subsidized construction of a new arena for the Kings with a countywide ¼ cent sales tax. The public voted down the ballot measures by approximately 4 to 1, with 80% of the ballots being cast against the measures.

14. In 2008, Kevin Johnson was elected Mayor. Prior to serving as Mayor, Mr. Johnson had played basketball in the NBA for twelve years. During his twelve-year career in the NBA, Mayor Johnson was a three-time NBA All-Star.

1 15. In 2011, Mayor Johnson launched Think Big Sacramento (“Think Big”), a non-
2 profit entity with the stated goal of developing a new arena for the Kings in Sacramento.
3 Purporting to be an independent organization, Think Big engaged in extensive public relations
4 efforts extolling the purported public benefits of a publicly-financed arena in Sacramento.
5 About that same time, a new City plan for a publicly-funded arena was unveiled in the
6 downtown Railyard site (“Railyard Arena Proposal”).

7 16. In light of the overwhelming defeat of Measures Q and R a few years earlier, the
8 City avoided a sales tax as the vehicle for subsidizing the Railyard Arena Proposal and instead
9 focused on leveraging City-owned assets – specifically, the “monetization of the City’s parking
10 assets and sale of City-owned land.” The City explained that the public benefit justifying the
11 public subsidy included “spur[ring] the development of the City’s historic Railyards.”

12 17. Total construction costs for the Railyard Arena Proposal were estimated at \$391
13 million, of which the City would contribute approximately \$255 million through “monetizing”
14 its assets.

15 18. On or about April 2012, the Maloofs, who own the controlling majority interest in
16 the Kings, backed out of the downtown Railyard Arena Proposal after more than a year of
17 project development and negotiations with the City. The Maloofs publicly justified their
18 decision by claiming that the parking-monetization strategy was not economically viable for
19 either the City or the Maloofs.

20 19. On or about August 2012, local reporters discovered that Think Big’s purportedly
21 independent efforts to promote a publicly-funded arena were funded by unreported “behests”
22 under the supervision of Mayor Johnson that ultimately traced back to the Kings organization
23 itself. Mayor Johnson had not previously reported these behests as required by law, and only
24 did so after the story broke in the local press.

25 20. On or about December 2012, the Fair Political Practices Commission fined
26 Mayor Johnson \$37,500 for his failure to report the behest payments.
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28

1 **The Present Arena Deal and Related Subsidy for the Franchise Purchase**

2 21. On or about January 2013, the National Basketball Association (“NBA”)
3 announced that the Maloofs had executed a contract with a Seattle-based investor group
4 (“Seattle Investor Group”) to sell their controlling interest. The Seattle Investor Group had
5 publicly indicated its intent to relocate the Kings to Seattle. The Seattle Investor Group had
6 agreed to purchase the Maloof’s controlling 65 percent interest of the Kings based on a \$525
7 million total franchise value.

8 22. Soon after the NBA’s announcement regarding purchase of the Kings by the
9 Seattle Investor Group, Mayor Johnson began seeking potential investors to both: (i) submit a
10 competing (i.e. “backup”) offer to purchase the Kings, and (ii) develop a strategy for financing
11 and constructing a new arena for the Kings in Sacramento. On information and belief, these
12 City officials entered into discussions with an investor group (“Sacramento Investor Group”)
13 then led by Ron Burkle of the Yucaipa Companies.

14 23. On or about the last week of January 2013, Ron Burkle publicly expressed
15 interest in submitting a competing offer to purchase the Kings. Mr. Burkle also expressed
16 interest in constructing the arena in the Downtown Plaza site rather than the downtown
17 Railyards site.

18 24. On information and belief, while publicly claiming an interest in submitting a
19 competing offer for the Kings, the Sacramento Investor Group privately communicated with the
20 Mayor Johnson and Mr. Shirey during the last week in January or first week of February that
21 they would not match the purchase price offered by the Seattle Investor Group. The
22 Sacramento Investor Group believed that the Kings franchise was “overvalued” at the \$525
23 million. The Sacramento Investor Group valued the Kings at only \$400 million, and would not
24 match the higher offer unless they received compensation, i.e. a public subsidy, from the City.

25 25. On information and belief, representatives of the Sacramento Investor Group,
26 including but not limited to developer David Taylor and attorney Jeffrey Dorso, informed
27 Mayor Johnson and Mr. Shirey that the Sacramento Investor Group would match the Seattle
28 Investor Group’s offer on the Kings only if the City reimbursed the difference back to the

1 Sacramento Investor Group. On information and believe, the value of this subsidy was 65
2 percent (franchise percentage ownership to be acquired from the Maloofs) of the difference
3 between \$525 million and \$400 million, or approximately \$80 million.

4 26. On information and belief, without obtaining approval from the City Council, the
5 Mayor Johnson and Mr. Shirey privately agreed to this arrangement with the Sacramento
6 Investor Group to subsidize their purchase of the “overvalued” franchise, and resolved to
7 convey this demanded subsidy for the franchise acquisition within the structure of the term
8 sheet for the arena proposal. This subsidy for franchise purchase that was in addition to any
9 subsidy for a new arena itself – which Mr. Shirey euphemistically referred to as “sweeteners” –
10 and included three components:

- 11 a. Grant a free 35-year lease to the Sacramento Investor Group for the
12 remaining 2,700 City-owned parking spaces at Downtown Plaza;
- 13 b. Grant six free electronic billboard leases to the Sacramento Investor Group
14 on City-owned parcels;
- 15 c. Convey fee interest for seven City-owned parcels to the Sacramento
16 Investor Group that have an assigned value of \$37,980,000, but which
17 have a fair market value that is significantly higher.

18 27. The City assigned a value of \$37,980,000 to the City-owned parcels based on
19 “Broker’s Opinions of Value.” A “Broker’s Opinion of Value” is not a real estate appraisal,
20 nor is it even prepared by a licensed real estate appraiser. On information and belief, City staff,
21 including Jim Rinehart among others, vigorously challenged these valuations and claimed that
22 the seven properties were worth far more. On information and belief, these objections by staff
23 were overruled by Mr. Dangberg and Mr. Shirey, who intended to mislead the taxpayers by
24 publicly disclosing values that were less than fair market as part of their secret subsidy
25 agreement with the Sacramento Investor Group.

26 28. On information and belief, Mayor Johnson, Mr. Shirey and Mr. Dangberg knew
27 that the true value of these three sweeteners – approximately \$80 million – could not be
28

publicly disclosed because it would bring the City's total subsidy to approximately \$338 million, an amount that these City officials knew would not be politically viable in Sacramento.

29. On information and belief, rather than risk a groundswell of public opposition that would be generated by accurately disclosing the combined subsidies for the Arena and purchase of the Kings franchise, Mayor Johnson, Mr. Shirey and Mr. Dangberg determined that it was more politically expedient to simply misrepresent to the taxpayers the true value of the City's subsidies.

30. On information and belief, without having the benefit of an agreement from the City to provide this subsidy for the Kings franchise, however, the Sacramento Investor Group submitted its "backup" offer to the NBA based upon its \$400 million estimate of franchise value.

31. On information and belief, NBA commissioner David Stern communicated to Mayor Johnson and the Sacramento Investor Group that they needed to increase their bid for the Kings franchise in order to remain competitive with the Seattle Investor Group.

32. On the evening of Saturday, March 23, 2013, the City released its term sheet ("Term Sheet") with the Sacramento Investor Group setting forth the business terms for the proposed arena at the Downtown Plaza site ("Arena"). The Term Sheet was released exactly three days prior to the City Council's approval.

33. The Term Sheet, and its associated City staff report, stated that the City's "total contribution" to the Arena totaled \$258, which included \$220,020,000 million in cash largely from "monetizing" the City's parking assets and \$37,980,000 in conveyance of City-owned real estate. However, consistent with their private agreement with the Sacramento Investor Group to convey a secret subsidy for purchase of the "overvalued" Kings franchise, additional consideration from the City to the Sacramento Investor Group was included in the Term Sheet but not reflected in the City's "total contribution." More specifically:

- a. In the section entitled "ESC Parking," the Term Sheet obliquely provides that the City will convey to the Sacramento Investor Group, free of charge, 2,700 Downtown Plaza parking spaces. The Term Sheet failed to assign

any monetary value whatsoever to this valuable conveyance to the Sacramento Investor Group;

- b. In the section entitled “Digital Signage Plan,” the Term Sheet also obliquely provides that the City will provide six electronic billboard leases to the Investor Group free of charge. As with the parking spaces, the Term Sheet assigns no monetary value whatsoever to this conveyance;
- c. Although the Term Sheet valued the seven City-owned parcels based preliminary “broker’s opinions of value,” the Term Sheet includes no provision adjusting the City’s total financial contributions to the Arena based on a different final determination of value.

34. On information and belief, the purpose and effect of the three “sweeteners” is to provide a subsidy to Sacramento Investor Group, which would not be disclosed to the taxpayers, that reimburses the Sacramento Investor Group for purchasing the “overvalued” Kings franchise.

35. Consistent with the intention to conceal from the public information about the additional subsidy for purchase of the Kings franchise, Section 5 of the Term Sheet’s staff report purports to compare the Arena proposal to the Railyard Arena Proposal. The staff report misrepresents to the public that the “City Contribution” for both deals is exactly the same: \$258 million.

36. The City Council approved the Term Sheet by a 7-2 vote on March 26, 2013. Plaintiffs and Petitioners do not know whether members of the City Council were aware that the Term Sheet included provisions intending to subsidize acquisition of the franchise when the Council approved the Term Sheet.

37. On information and belief, the City’s approval of the Term Sheet, including the commitment to subsidize purchase of the Kings franchise by approximately \$80 million, reassured the Sacramento Investor Group such that it increased its bid to a franchise value of \$525 for the Kings on or about April 12, 2013.

Other Relevant Provisions from the Term Sheet and Arena Financing Structure

38. While purportedly “non-binding,” the Term Sheet provides, “The parties agree to prepare definitive legal documents that contain the basic terms set forth herein, with other agreed terms consistent with this Term Sheet that are customarily included in similar agreements”

39. One of the Term Sheet’s “basic terms” provides that the City will contribute approximately \$212.5 million in cash by “monetizing” its parking assets. More specifically, this will transfer its off-street parking assets to a non-profit entity that will, in turn, issue revenue bonds based upon those assets. The City would retain the on-street parking meter assets and revenues and simply “appropriate on an annual basis revenues equal to net on-street and enforcement revenues,” thus violating City Code section 10.40.130, which prohibits such use of parking meter revenues.

40. According to the Term Sheet’s staff report, another source of City “funding” would come in the form of the County of Sacramento waiving its possessory interest tax for the Arena. The staff report represented to the taxpayers that, “The County has agreed to contribute the same source of revenue for this project.” In fact, the County had not agreed to such a subsidy.

41. On information and belief, Mr. Dangberg knowingly misrepresented the County’s position regarding the requested waiver of the possessory interest tax in order to falsely reflect this “revenue source” in the Term Sheet in an attempt to demonstrate that the Arena financing would not impact the City’s General Fund.

42. The City provided no economic study – independent or otherwise – to support the structure set forth in the Term Sheet or the repeated claims by Mayor Johnson, Mr. Shirey and Mr. Dangberg that the Arena would not impact the City’s General Fund. The Term Sheet’s staff report did not even include the City’s underlying data to reveal, much less support, the City’s assumptions concerning cost and revenue predictions to “backfill” the General Fund. An independent analysis by economist Jeffrey Michael of the University of Pacific concluded that the Arena would likely cost the General Fund by \$4 – 8 million annually.

1 43. The Term Sheet’s staff report also provided no reports, studies or other support to
2 substantiate the claimed public benefit from the Arena, namely that it “will serve as a catalyst
3 for economic development in downtown and throughout the region.” By letters dated March
4 14, 2013, and March 26, 2013, Petitioners provided extensive analysis, supported by numerous
5 expert studies, that directly refuted the City’s claim. The Term Sheet’s staff report completely
6 ignored these extensive submissions and has utterly failed to support the City’s claim that the
7 Arena will somehow serve as a “catalyst” for economic growth in the local economy.

8 44. The Term Sheet’s staff report also conclusively states, “[A] privately financed
9 facility in Sacramento would not be economically viable given the limitations of the
10 Sacramento market.” No economic study or analysis supports this conclusory assertion, which
11 is refuted by the fact that the Kings currently play in an arena that was indeed constructed with
12 all private capital.

13 **FIRST CAUSE OF ACTION**

14 **(INTENTIONAL FRAUD)**

15 45. Petitioners reallege and incorporate by reference the allegations in paragraphs 1
16 through 44 as if fully set forth herein.

17 46. Respondents made representations of material fact concerning the nature and
18 amount of public subsidy for the Arena. Specifically, Respondents represented that the subsidy
19 was limited to construction of the Arena, that the City’s “total contribution” had a value of
20 \$258 million, that the value of the City-owned parcels was only \$37,980,000, that the free
21 billboard leases had no value, that the 2,700 parking spaces had no value, and that the County
22 of Sacramento had agreed to waive the possessory interest tax.

23 47. On information and belief, Mayor Johnson and Mr. Shirey agreed to subsidize the
24 difference in value between what the Sacramento Investor Group believed was the true value of
25 the Kings franchise, and the value being offered by the Seattle Investor Group; and to bury that
26 subsidy within the financial arrangements for construction of the Arena.

1 48. On information and belief, Mr. Dangberg misrepresented the result of his
2 discussions with County representatives concerning the County's commitment at that time
3 concerning waiver of the possessory use tax.

4 49. On information and belief, Mr. Shirey disregarded advice from City staff and
5 thereby publicly misrepresented their fair market value, in order to convey the subsidy for
6 purchase of the "overvalued" Kings franchise.

7 50. All of Respondents' misrepresentations were communicated to the City Council
8 and the public via the Term Sheet and its staff report dated March 26, 2013.

9 51. Respondents' representations were in fact false. Contrary to Respondents'
10 statements, the scope of the subsidy included purchase of the Kings franchise, the City's "total
11 contribution" was closer to \$338 million, the 2,700 Downtown Plaza parking spaces had
12 significant value, the billboard leases had significant value, and that the County of Sacramento
13 had not agreed to waive the possessory interest tax.

14 52. When Respondents made the representations, Respondents knew they were false
15 or had no reasonable ground for believing the representations were true.

16 53. Respondents made the representations with the intent to defraud and induce both
17 the City Council and public to support the Arena.

18 54. At the time the City Council acted, the City Council did not know the
19 representations were false and believed they were true. On information and belief, the City
20 Council acted in reliance on the truth of the representations.

21 **SECOND CAUSE OF ACTION**

22 **(CONCEALMENT)**

23 55. Petitioners reallege and incorporate by reference the allegations in paragraphs 1
24 through 54 as if fully set forth herein.

25 56. Respondents concealed or suppressed material facts that Respondents were bound
26 to disclose. On information and belief, Mayor Johnson, Mr. Shirey and Mr. Dangberg failed to
27 disclose in the Term Sheet or its staff report dated March 26, 2013, that they had privately
28 agreed with the Sacramento Investor Group to subsidize its purchase of the Kings franchise,

1 and that the conveyance of 2,700 Downtown Plaza parking spaces, free billboard leases and
2 undervalued City-owned parcels were the vehicle for providing that subsidy.

3 57. On information and belief, Respondents concealed or suppressed these facts with
4 the intent to defraud and induce the City Council and public to support the Arena.

5 58. On information and belief, at the time the City Council acted, the City Council
6 was unaware of the concealed or suppressed facts, and would not have taken its action if the
7 City Council had known the true facts.

8 **THIRD CAUSE OF ACTION**

9 **(WRIT OF PROHIBITION)**

10 59. Petitioners reallege and incorporate by reference the allegations in paragraphs 1
11 through 58 as if fully set forth herein.

12 60. Respondents made representations of material fact concerning the nature and
13 amount of public subsidy for the Arena. Specifically, Respondents represented that the subsidy
14 was limited to construction of the Arena, that the City's "total contribution" had a value of
15 \$258 million, that the value of the City-owned parcels was only \$37,980,000, that the free
16 billboard leases had no value, that the 2,700 parking spaces had no value, and that the County
17 of Sacramento had agreed to waive the possessory interest tax.

18 61. On information and belief, Mayor Johnson and Mr. Shirey agreed to subsidize the
19 difference in value between what the Sacramento Investor Group believed was the true value of
20 the Kings franchise, and the value being offered by the Seattle Investor Group; and to bury that
21 subsidy within the financial arrangements for construction of the Arena.

22 62. On information and belief, Mr. Dangberg misrepresented the result of his
23 discussions with County representatives concerning the County's commitment at that time
24 concerning waiver of the possessory use tax.

25 63. On information and belief, the City's approval of the Term Sheet was procured by
26 unlawful and fraudulent means.

27 64. Petitioners have exhausted all administrative remedies required in order to file
28 this action.

1 65. Petitioners have no adequate remedy at law in that an action for monetary
2 damages or other relief will not compensate Petitioners for deprivation of Petitioners' rights.

3 66. As a result of Respondents' conduct alleged herein, Petitioners have, and will
4 continue to incur, costs and attorneys' fees in an amount according to proof and Petitioners'
5 claim costs and attorneys' fees pursuant to Code of Civil Procedure sections 526, subdivision
6 (a) and section 1021.5.

7 67. Petitioners seek a writ of prohibition commanding the City, its officers and agents
8 to refrain from taking any further actions or expending any further public funds in furtherance
9 of the Arena and the covenants and duties contained in the Term Sheet.

10 **FOURTH CAUSE OF ACTION**

11 **(ILLEGAL EXPENDITURE OF PUBLIC FUNDS)**

12 68. Petitioners reallege and incorporate by reference the allegations in paragraphs 1
13 through 67 as if fully set forth herein.

14 69. Petitioners allege that this action is proper under Code of Civil Procedure section
15 526, subdivision (a) to challenge and enjoin the City's illegal expenditure of public funds.

16 70. The California Constitution prohibits the gift of public funds or anything of value
17 to any individual, corporation, or other governmental entity. (Cal. Const., Art. XVI, § 6.)

18 71. The City's approval of the Term Sheet constitutes an illegal expenditure of public
19 funds. While purportedly "non-binding," the Term Sheet provides, "the parties agree to prepare
20 definitive documents that contain the basic terms set forth herein, with other agreed terms
21 consistent with this Term Sheet that are customarily included in similar agreements." The
22 "basic terms" of the Term Sheet, which subsidize the Sacramento Investor Group for their
23 purchase of a private entity, namely the Kings franchise, constitutes an illegal expenditure of
24 public funds for the purely private benefit of the Sacramento Investor Group.

25 72. The Term Sheet also authorizes an unlawful expenditure of public funds in
26 violation of the City Code. City Code section 10.40.130 limits use of parking meter revenues
27 to "provide for the proper regulation and control of traffic upon the public streets, to provide for
28 public vehicular off-street parking facilities and to cover the cost of the supervision, inspection,

1 installation, maintenance, control and use of the parking spaces and regulating parking of
2 vehicles in the parking meter zones.” In an unlawful attempt to do indirectly what the City
3 cannot do directly, the Term Sheet provides that the City will make a general fund contribution
4 to the nonprofit financing authority equal to the annual profits of the parking meters. Thus, the
5 Term Sheet violates City Code section 10.40.130.

6 73. Because the Term Sheet is both unconstitutional and violates the City Code,
7 money spent to enforce it is an illegal expenditure and further such expenditures should be
8 enjoined by this Court.

9 74. On March 14, 2013 and again on March 26, 2013, Petitioners through their
10 counsel demanded redress from Respondents for their unlawful gift of public funds. Petitioners
11 allege on information and belief that to the extent that the law requires any additional demand
12 for redress, such demand in this instance would be futile.

13 **FIFTH CAUSE OF ACTION**

14 **(WASTE OF PUBLIC FUNDS)**

15 75. Petitioners reallege and incorporate by reference the allegations in paragraphs 1
16 through 74 as if fully set forth herein.

17 76. Petitioners allege that this action is proper under Code of Civil Procedure section
18 526, subdivision (a) to challenge and enjoin any waste of the estate, funds or other property of
19 the City.

20 77. California law prohibits the expenditure of public funds to any individual,
21 corporation, or other governmental entity that does not result in a public benefit.

22 78. The City has utterly failed to support its claim that the Arena will provide a
23 catalyst for economic development and growth in the region. Petitioners submitted several
24 economic studies that questioned the City’s assumptions in this regard, which received no
25 response whatsoever from the City.

26 79. In light of the City’s failure to substantiate its claims that the Arena will result in
27 economic activity, the City’s subsidy of the Arena constitutes waste.
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80. Even if the Arena provides some public benefit justifying a significant public subsidy, Petitioners allege that a subsidy in the amount of \$80 million to a private party to acquire an “overpriced” private business entity provides no public benefit, and therefore constitutes public waste.

81. Respondents have wasted the estate of the City and threaten to and will continue to waste such estate by “monetizing” its parking assets and conveying real property, parking spaces and billboard leases, which results in significant loss of revenue to the City, which waste of public funds and estate should be enjoined.

82. On March 14, 2013 and again on March 26, 2013, Petitioners through their counsel demanded redress from Respondents for their unlawful public waste. Petitioners allege on information and belief that to the extent that the law requires any additional demand for redress, such demand in this instance would be futile.

SIXTH CAUSE OF ACTION

(DECLARATORY RELIEF)

83. Petitioners reallege and incorporate by reference the allegations in paragraphs 1 through 82 as if fully set forth herein.

84. An actual controversy has arisen and now exists between Petitioners and Respondents concerning their respective rights and duties in that Petitioners contend that Respondents have procured City approval of the Term Sheet by means of fraud, concealment and other unlawful means, and said conduct constitutes an unlawful infringement upon Petitioners' legal rights.

85. To resolve this controversy, Petitioners desire a judicial determination and declaration of the legal issues set forth herein.

86. A judicial determination is necessary and appropriate of these issues and of the respective duties of Petitioners and Respondents is necessary and appropriate at this time under the circumstances since the City is poised to enter into binding agreements to convey various City-owned properties to private investors consistent with the substantive terms set forth in the ESC's Term Sheet previously approved by the Sacramento City Council.

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1 4. For costs of suit and reasonable attorneys' fees as determined by the Court
2 pursuant to Code of Civil Procedure sections 526, subdivision (a) and section 1021.5;

3 5. For such other and further relief as the Court may deem proper.
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5 Dated: May 14, 2013

COHEN & DURRETT, LLP

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7 By: 

JEFFREY L. ANDERSON
Attorney for Petitioners and Plaintiffs
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10 Dated: May 14, 2013

SOLURI MESERVE,
A LAW CORPORATION

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12 By: 

PATRICK M. SOLURI
Attorney for Petitioners and Plaintiffs
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VERIFICATION

I, Isaac Gonzalez, am a named Petitioner and Plaintiff in the above-entitled action. I have read the foregoing Petition and Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Sacramento, California on May 14, 2013.



ISAAC GONZALEZ